

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JIMMIE LEWIS,)	
)	
Plaintiff,)	C.A. No.: 04-1350 (GMS)
)	
v.)	
)	
SYLVIA FOSTER, LANCE SAPERS,)	
DAVE MOFFITT, R. GRAY,)	
MR. JOHNSON, JOHN JOE,)	
)	
Defendants.)	

**DEFENDANT DR. SYLVIA FOSTER'S RESPONSE TO PLAINTIFF'S
MOTION FOR INTERROGATORY ANSWERS #5**

COME NOW, Defendant, Dr. Sylvia Foster, by and through her undersigned counsel and responds to Plaintiff's Motion for Interrogatory Answers #5, and in support thereof, avers the following:

1. Plaintiff, Jimmie Lewis, filed the present Motion on January 17, 2007 requesting further clarification and information regarding various documents submitted by Defendant, Dr. Sylvia Foster, pursuant to a previous discovery request. This is the fifth such motion filed by Plaintiff.
2. An Order signed by the Honorable Judge Sleet of September 27, 2006 specifically reads, "Defendants shall respond to interrogatories and request for admission *properly filed* by Plaintiff within the discovery period . . ." [emphasis added]. The current discovery requests are not "properly filed" as indicated in the Honorable Judge Sleet's Order. Therefore, Defendant contends a response to such requests is not warranted pursuant to the Court's Order of September 27, 2006.
3. Defendant, Dr. Sylvia Foster, filed a Motion for Protective Order on October 27,

2006 in response to the requests by Plaintiff for discovery materials. The arguments presented in said Motion for Protective Order are herein incorporated in this response in opposition to the Plaintiff's present Motion for Interrogatory Answers #5.

3. At this time, the Court has not ruled on the outstanding Motion for Protective Order. Until a ruling is made on said Motion, Defendant, Dr. Sylvia Foster's position is to refrain from responding to the inordinate amount of discovery requests which have been submitted by Plaintiff in this case. In the event the Court rules responses are necessary from Defendant, Dr. Sylvia Foster, then efforts will be undertaken to abide by the ruling of the Court.

Therefore, in light of the arguments submitted above and responses thereto, Defendant, Dr. Sylvia Foster, respectfully requests this Honorable Court to deny the Motion for Interrogatory Answers #5 filed by Plaintiff.

RESPECTFULLY SUBMITTED,

REGER RIZZO KAVULICH & DARNALL LLP

/s/ Louis J. Rizzo, Jr.

Louis J. Rizzo, Jr., Esquire
Delaware State Bar I.D. No. 2565
Ronald W. Hartnett, Jr., Esquire
Delaware State Bar I.D. No. 4497
1001 Jefferson Plaza, Suite 202
Wilmington, DE 19801
(302) 652-3611
Attorney for Defendant Dr. Sylvia Foster

Dated: 01-23-2007

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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify on this 23rd day of January, 2007 that a true and correct copy of Defendant Dr. Sylvia Foster's Response to Plaintiff's Motion for Interrogatory Answers #5 has been served electronically and/or by first class mail, postage prepaid, to the following:

Jimmie Lewis
SBI#506622
1181 Paddock Road
Delaware Correctional Center
Smyrna, DE 19977

Gregory E. Smith
Deputy Attorney General
820 North French Street, 7th Floor
Carvel State Office Building
Wilmington, DE 19801

REGER RIZZO KAVULICH & DARNALL LLP

/s/ Louis J. Rizzo, Jr.

Louis J. Rizzo, Jr., Esquire
Delaware State Bar I.D. No.
Ronald W. Hartnett, Jr., Esquire
Delaware State Bar I.D. No. 4497
1001 Jefferson Plaza, Suite 202
Wilmington, DE 19801
(302) 652-3611
Attorney for Defendant Dr. Sylvia Foster

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